

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DAVIS EDDIE WILSON

Petitioner,

v.

Civ. No. 12-1224 JAP/GBW

TIM HATCH and ATTORNEY GENERAL
FOR THE STATE OF NEW MEXICO,

Respondents.

**ORDER ADOPTING THE MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

On March 22, 2013, the Magistrate Judge filed his Proposed Findings and Recommended Disposition in this case. *Doc. 18*. He found that Petitioner failed to exhaust three of his claims: (1) the alleged conflict of interest of New Mexico Supreme Court Justice Charles Daniels; (2) the violation of Petitioner's equal protection rights by New Mexico District Court Judge Albert Murdoch's refusal to recuse himself from Petitioner's preliminary hearing; and (3) prosecutorial misconduct due to the introduction of contaminated evidence at trial. *Id.* The Magistrate Judge therefore determined that Petitioner's petition for writ of habeas corpus was mixed and recommended that the Court allow Petitioner thirty days to voluntarily dismiss the unexhausted claims or provide evidence demonstrating exhaustion. *Id.* at 18. He also recommended that the Court deny Petitioner's requests for appointment of counsel and a determination of whether Respondents are prejudiced toward him.

On April 5, 2013, Petitioner voluntarily dismissed the three claims that the Magistrate Judge found were unexhausted. *Doc. 20*. Petitioner did not file objections to the Magistrate Judge's recommendation that this Court deny his requests for appointment of counsel and a determination of whether Respondents are prejudiced. Upon review of the record, I concur with this recommendation.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition, *doc. 18*, is ADOPTED. Petitioner's three unexhausted claims regarding Justice Daniels' alleged conflict of interest, the violation of Petitioner's equal protection rights by Judge Murdoch, and prosecutorial misconduct due to the introduction of contaminated evidence, are DISMISSED without prejudice. Petitioner's requests for appointment of counsel and a determination of whether Respondents are prejudiced toward him are DENIED.



SENIOR UNITED STATES DISTRICT JUDGE